

HOUSE BILL NO. 5548

November 10, 2021, Introduced by Reps. Morse, Brixie, Steckloff, Hood, Anthony, Lasinski, Breen, Koleszar, Stone, Hope, Haadsma, Scott, Kupp, Puri, Sowerby, Cavanagh, Rogers, Tate, Tyrone Carter, Ellison, Hertel, Bolden, Weiss, Sabo, Rabhi, Sneller, Brabec, Pohutsky, Thanedar, Aiyash, Manoogian and Yancey and referred to the Committee on Health Policy.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 6 (MCL 388.1606), as amended by 2020 PA 165.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) "Center program" means a program operated by a
2 district or by an intermediate district for special education
3 pupils from several districts in programs for pupils with autism
4 spectrum disorder, pupils with severe cognitive impairment, pupils
5 with moderate cognitive impairment, pupils with severe multiple

1 impairments, pupils with hearing impairment, pupils with visual
2 impairment, and pupils with physical impairment or other health
3 impairment. Programs for pupils with emotional impairment housed in
4 buildings that do not serve regular education pupils also qualify.
5 Unless otherwise approved by the department, a center program
6 either serves all constituent districts within an intermediate
7 district or serves several districts with less than 50% of the
8 pupils residing in the operating district. In addition, special
9 education center program pupils placed part-time in noncenter
10 programs to comply with the least restrictive environment
11 provisions of section 1412 of the individuals with disabilities
12 education act, 20 USC 1412, may be considered center program pupils
13 for pupil accounting purposes for the time scheduled in either a
14 center program or a noncenter program.

15 (2) "District and high school graduation rate" means the
16 annual completion and pupil dropout rate that is calculated by the
17 center pursuant to nationally recognized standards.

18 (3) "District and high school graduation report" means a
19 report of the number of pupils, excluding adult education
20 participants, in the district for the immediately preceding school
21 year, adjusted for those pupils who have transferred into or out of
22 the district or high school, who leave high school with a diploma
23 or other credential of equal status.

24 (4) "Membership", except as otherwise provided in this
25 subsection or this article, means for a district, a public school
26 academy, or an intermediate district the sum of the product of .90
27 times the number of full-time equated pupils in grades K to 12
28 actually enrolled and in regular daily attendance in the district,
29 public school academy, or intermediate district on the pupil

1 membership count day for the current school year, plus the product
2 of .10 times the final audited count from the supplemental count
3 day of full-time equated pupils in grades K to 12 actually enrolled
4 and in regular daily attendance in the district, public school
5 academy, or intermediate district for the immediately preceding
6 school year. A district's, public school academy's, or intermediate
7 district's membership is adjusted as provided under section 25e for
8 pupils who enroll after the pupil membership count day in a strict
9 discipline academy operating under sections 1311b to 1311m of the
10 revised school code, MCL 380.1311b to 380.1311m. For 2020-2021
11 only, membership means for a district, a public school academy, or
12 an intermediate district, the sum of the product of .75 times the
13 district's, public school academy's, or intermediate district's
14 2019-2020 membership as calculated under this section in 2019-2020
15 and the product of .25 times [the sum of (the product of .90 times
16 the number of full-time equated pupils engaged in pandemic learning
17 for fall 2020 or, for a public school academy that operates as a
18 cyber school, as that term is defined in section 551 of the revised
19 school code, MCL 380.551, the number of full-time equated pupils in
20 grades K to 12 actually enrolled and in regular daily attendance in
21 the public school academy on pupil membership count day for the
22 current school year) and (the product of .10 times the final
23 audited count from the supplemental count day of full-time equated
24 pupils in grades K to 12 actually enrolled and in regular daily
25 attendance in the district, public school academy, or intermediate
26 district for the immediately preceding school year)]. All pupil
27 counts used in this subsection are as determined by the department
28 and calculated by adding the number of pupils registered for
29 attendance plus pupils received by transfer and minus pupils lost

1 as defined by rules promulgated by the superintendent, and as
2 corrected by a subsequent department audit. The amount of the
3 foundation allowance for a pupil in membership is determined under
4 section 20. In making the calculation of membership, all of the
5 following, as applicable, apply to determining the membership of a
6 district, a public school academy, or an intermediate district:

7 (a) Except as otherwise provided in this subsection, and
8 pursuant to subsection (6), a pupil is counted in membership in the
9 pupil's educating district or districts. An individual pupil must
10 not be counted for more than a total of 1.0 full-time equated
11 membership.

12 (b) If a pupil is educated in a district other than the
13 pupil's district of residence, if the pupil is not being educated
14 as part of a cooperative education program, if the pupil's district
15 of residence does not give the educating district its approval to
16 count the pupil in membership in the educating district, and if the
17 pupil is not covered by an exception specified in subsection (6) to
18 the requirement that the educating district must have the approval
19 of the pupil's district of residence to count the pupil in
20 membership, the pupil is not counted in membership in any district.

21 (c) A special education pupil educated by the intermediate
22 district is counted in membership in the intermediate district.

23 (d) A pupil placed by a court or state agency in an on-grounds
24 program of a juvenile detention facility, a child caring
25 institution, or a mental health institution, or a pupil funded
26 under section 53a, is counted in membership in the district or
27 intermediate district approved by the department to operate the
28 program.

29 (e) A pupil enrolled in the Michigan Schools for the Deaf and

1 Blind is counted in membership in the pupil's intermediate district
2 of residence.

3 (f) A pupil enrolled in a career and technical education
4 program supported by a millage levied over an area larger than a
5 single district or in an area vocational-technical education
6 program established under section 690 of the revised school code,
7 MCL 380.690, is counted in membership only in the pupil's district
8 of residence.

9 (g) A pupil enrolled in a public school academy is counted in
10 membership in the public school academy.

11 (h) For the purposes of this section and section 6a, for a
12 cyber school, as that term is defined in section 551 of the revised
13 school code, MCL 380.551, that is in compliance with section 553a
14 of the revised school code, MCL 380.553a, a pupil's participation
15 in the cyber school's educational program is considered regular
16 daily attendance, and for a district or public school academy, a
17 pupil's participation in a virtual course as that term is defined
18 in section 21f is considered regular daily attendance. For the
19 purposes of this subdivision, for a pupil enrolled in a cyber
20 school and utilizing sequential learning, participation means that
21 term as defined in the pupil accounting manual, section 5-o-d:
22 requirements for counting pupils in membership-subsection 10.

23 (i) For a new district or public school academy beginning its
24 operation after December 31, 1994, membership for the first 2 full
25 or partial fiscal years of operation is determined as follows:

26 (i) Except as otherwise provided in this subparagraph, if
27 operations begin before the pupil membership count day for the
28 fiscal year, membership is the average number of full-time equated
29 pupils in grades K to 12 actually enrolled and in regular daily

1 attendance on the pupil membership count day for the current school
2 year and on the supplemental count day for the current school year,
3 as determined by the department and calculated by adding the number
4 of pupils registered for attendance on the pupil membership count
5 day plus pupils received by transfer and minus pupils lost as
6 defined by rules promulgated by the superintendent, and as
7 corrected by a subsequent department audit, plus the final audited
8 count from the supplemental count day for the current school year,
9 and dividing that sum by 2. However, for 2020-2021 only, if
10 operations begin before the pupil membership count day for the
11 fiscal year, except for a public school academy that operates as a
12 cyber school, as that term is defined in section 551 of the revised
13 school code, MCL 380.551, membership is the average number of full-
14 time equated pupils engaged in pandemic learning for fall 2020 and
15 full-time equated pupils engaged in pandemic learning for spring
16 2021, as that term is defined in section 6a, as determined by the
17 department and calculated by adding the number of pupils registered
18 for attendance on the pupil membership count day plus pupils
19 received by transfer and minus pupils lost as defined by rules
20 promulgated by the superintendent, and as corrected by a subsequent
21 department audit, plus the final audited count from the
22 supplemental count day for the current school year, and dividing
23 that sum by 2.

24 (ii) If operations begin after the pupil membership count day
25 for the fiscal year and not later than the supplemental count day
26 for the fiscal year, membership is the final audited count of the
27 number of full-time equated pupils in grades K to 12 actually
28 enrolled and in regular daily attendance on the supplemental count
29 day for the current school year, but, for 2020-2021 only, except

1 for a public school academy that operates as a cyber school, as
2 that term is defined in section 551 of the revised school code, MCL
3 380.551, membership is the final audited count of the number of
4 full-time equated pupils engaged in pandemic learning for spring
5 2021, as that term is defined in section 6a.

6 (j) If a district is the authorizing body for a public school
7 academy, then, in the first school year in which pupils are counted
8 in membership on the pupil membership count day in the public
9 school academy, the determination of the district's membership
10 excludes from the district's pupil count for the immediately
11 preceding supplemental count day any pupils who are counted in the
12 public school academy on that first pupil membership count day who
13 were also counted in the district on the immediately preceding
14 supplemental count day.

15 (k) For an extended school year program approved by the
16 superintendent, a pupil enrolled, but not scheduled to be in
17 regular daily attendance, on a pupil membership count day, is
18 counted in membership.

19 (l) To be counted in membership, a pupil must meet the minimum
20 age requirement to be eligible to attend school under section 1147
21 of the revised school code, MCL 380.1147, or must be enrolled under
22 subsection (3) of that section, and must be less than 20 years of
23 age on September 1 of the school year except as follows:

24 (i) A special education pupil who is enrolled and receiving
25 instruction in a special education program or service approved by
26 the department, who does not have a high school diploma, and who is
27 less than 26 years of age as of September 1 of the current school
28 year is counted in membership.

29 (ii) A pupil who is determined by the department to meet all of

1 the following may be counted in membership:

2 (A) Is enrolled in a public school academy or an alternative
3 education high school diploma program, that is primarily focused on
4 educating pupils with extreme barriers to education, such as being
5 homeless as defined under 42 USC 11302.

6 (B) Had dropped out of school.

7 (C) Is less than 22 years of age as of September 1 of the
8 current school year.

9 (iii) If a child does not meet the minimum age requirement to be
10 eligible to attend school for that school year under section 1147
11 of the revised school code, MCL 380.1147, but will be 5 years of
12 age not later than December 1 of that school year, the district may
13 count the child in membership for that school year if the parent or
14 legal guardian has notified the district in writing that he or she
15 intends to enroll the child in kindergarten for that school year.

16 (m) An individual who has achieved a high school diploma is
17 not counted in membership. An individual who has achieved a high
18 school equivalency certificate is not counted in membership unless
19 the individual is a student with a disability as that term is
20 defined in R 340.1702 of the Michigan Administrative Code. An
21 individual participating in a job training program funded under
22 former section 107a or a jobs program funded under former section
23 107b, administered by the department of labor and economic
24 opportunity, or participating in any successor of either of those 2
25 programs, is not counted in membership.

26 (n) If a pupil counted in membership in a public school
27 academy is also educated by a district or intermediate district as
28 part of a cooperative education program, the pupil is counted in
29 membership only in the public school academy unless a written

1 agreement signed by all parties designates the party or parties in
2 which the pupil is counted in membership, and the instructional
3 time scheduled for the pupil in the district or intermediate
4 district is included in the full-time equated membership
5 determination under subdivision (q) and section 101. However, for
6 pupils receiving instruction in both a public school academy and in
7 a district or intermediate district but not as a part of a
8 cooperative education program, the following apply:

9 (i) If the public school academy provides instruction for at
10 least 1/2 of the class hours required under section 101, the public
11 school academy receives as its prorated share of the full-time
12 equated membership for each of those pupils an amount equal to 1
13 times the product of the hours of instruction the public school
14 academy provides divided by the number of hours required under
15 section 101 for full-time equivalency, and the remainder of the
16 full-time membership for each of those pupils is allocated to the
17 district or intermediate district providing the remainder of the
18 hours of instruction.

19 (ii) If the public school academy provides instruction for less
20 than 1/2 of the class hours required under section 101, the
21 district or intermediate district providing the remainder of the
22 hours of instruction receives as its prorated share of the full-
23 time equated membership for each of those pupils an amount equal to
24 1 times the product of the hours of instruction the district or
25 intermediate district provides divided by the number of hours
26 required under section 101 for full-time equivalency, and the
27 remainder of the full-time membership for each of those pupils is
28 allocated to the public school academy.

29 (o) An individual less than 16 years of age as of September 1

1 of the current school year who is being educated in an alternative
2 education program is not counted in membership if there are also
3 adult education participants being educated in the same program or
4 classroom.

5 (p) The department shall give a uniform interpretation of
6 full-time and part-time memberships.

7 (q) The number of class hours used to calculate full-time
8 equated memberships must be consistent with section 101. In
9 determining full-time equated memberships for pupils who are
10 enrolled in a postsecondary institution or for pupils engaged in an
11 internship or work experience under section 1279h of the revised
12 school code, MCL 380.1279h, a pupil is not considered to be less
13 than a full-time equated pupil solely because of the effect of his
14 or her postsecondary enrollment or engagement in the internship or
15 work experience, including necessary travel time, on the number of
16 class hours provided by the district to the pupil.

17 (r) Full-time equated memberships for pupils in kindergarten
18 are determined by dividing the number of instructional hours
19 scheduled and provided per year per kindergarten pupil by the same
20 number used for determining full-time equated memberships for
21 pupils in grades 1 to 12. However, to the extent allowable under
22 federal law, for a district or public school academy that provides
23 evidence satisfactory to the department that it used federal title
24 I money in the 2 immediately preceding school fiscal years to fund
25 full-time kindergarten, full-time equated memberships for pupils in
26 kindergarten are determined by dividing the number of class hours
27 scheduled and provided per year per kindergarten pupil by a number
28 equal to 1/2 the number used for determining full-time equated
29 memberships for pupils in grades 1 to 12. The change in the

1 counting of full-time equated memberships for pupils in
2 kindergarten that took effect for 2012-2013 is not a mandate.

3 (s) For a district or a public school academy that has pupils
4 enrolled in a grade level that was not offered by the district or
5 public school academy in the immediately preceding school year, the
6 number of pupils enrolled in that grade level to be counted in
7 membership is the average of the number of those pupils enrolled
8 and in regular daily attendance on the pupil membership count day
9 and the supplemental count day of the current school year, but, for
10 2020-2021 only, except for a public school academy that operates as
11 a cyber school, as that term is defined in section 551 of the
12 revised school code, MCL 380.551, the number of pupils enrolled in
13 that grade level to be counted in membership is the average of the
14 number of those pupils engaged in pandemic learning for fall 2020
15 and the number of those pupils engaged in pandemic learning for
16 spring 2021, as that term is defined in section 6a, as determined
17 by the department. Membership is calculated by adding the number of
18 pupils registered for attendance in that grade level on the pupil
19 membership count day plus pupils received by transfer and minus
20 pupils lost as defined by rules promulgated by the superintendent,
21 and as corrected by subsequent department audit, plus the final
22 audited count from the supplemental count day for the current
23 school year, and dividing that sum by 2.

24 (t) A pupil enrolled in a cooperative education program may be
25 counted in membership in the pupil's district of residence with the
26 written approval of all parties to the cooperative agreement.

27 (u) If, as a result of a disciplinary action, a district
28 determines through the district's alternative or disciplinary
29 education program that the best instructional placement for a pupil

1 is in the pupil's home or otherwise apart from the general school
2 population, if that placement is authorized in writing by the
3 district superintendent and district alternative or disciplinary
4 education supervisor, and if the district provides appropriate
5 instruction as described in this subdivision to the pupil at the
6 pupil's home or otherwise apart from the general school population,
7 the district may count the pupil in membership on a pro rata basis,
8 with the proration based on the number of hours of instruction the
9 district actually provides to the pupil divided by the number of
10 hours required under section 101 for full-time equivalency. For the
11 purposes of this subdivision, a district is considered to be
12 providing appropriate instruction if all of the following are met:

13 (i) The district provides at least 2 nonconsecutive hours of
14 instruction per week to the pupil at the pupil's home or otherwise
15 apart from the general school population under the supervision of a
16 certificated teacher.

17 (ii) The district provides instructional materials, resources,
18 and supplies that are comparable to those otherwise provided in the
19 district's alternative education program.

20 (iii) Course content is comparable to that in the district's
21 alternative education program.

22 (iv) Credit earned is awarded to the pupil and placed on the
23 pupil's transcript.

24 (v) If a pupil was enrolled in a public school academy on the
25 pupil membership count day, if the public school academy's contract
26 with its authorizing body is revoked or the public school academy
27 otherwise ceases to operate, and if the pupil enrolls in a district
28 within 45 days after the pupil membership count day, the department
29 shall adjust the district's pupil count for the pupil membership

1 count day to include the pupil in the count.

2 (w) For a public school academy that has been in operation for
3 at least 2 years and that suspended operations for at least 1
4 semester and is resuming operations, membership is the sum of the
5 product of .90 times the number of full-time equated pupils in
6 grades K to 12 actually enrolled and in regular daily attendance on
7 the first pupil membership count day or supplemental count day,
8 whichever is first, occurring after operations resume, plus the
9 product of .10 times the final audited count from the most recent
10 pupil membership count day or supplemental count day that occurred
11 before suspending operations, as determined by the superintendent,
12 but, for 2020-2021 only, except for a public school academy that
13 operates as a cyber school, as that term is defined in section 551
14 of the revised school code, MCL 380.551, membership is the sum of
15 the product of .90 times the number of full-time equated pupils
16 engaged in pandemic learning for fall 2020 or the number of full-
17 time equated pupils engaged in pandemic learning for spring 2021,
18 as that term is defined in section 6a, whichever applies first
19 after operations resume, plus the product of .10 times the final
20 audited count from the most recent pupil membership count day or
21 supplemental count day that occurred before suspending operations,
22 as determined by the superintendent.

23 (x) If a district's membership for a particular fiscal year,
24 as otherwise calculated under this subsection, would be less than
25 1,550 pupils, the district has 4.5 or fewer pupils per square mile,
26 as determined by the department, and the district does not receive
27 funding under section 22d(2), the district's membership is
28 considered to be the membership figure calculated under this
29 subdivision. If a district educates and counts in its membership

1 pupils in grades 9 to 12 who reside in a contiguous district that
2 does not operate grades 9 to 12 and if 1 or both of the affected
3 districts request the department to use the determination allowed
4 under this sentence, the department shall include the square
5 mileage of both districts in determining the number of pupils per
6 square mile for each of the districts for the purposes of this
7 subdivision. If a district has established a community engagement
8 advisory committee in partnership with the department of treasury,
9 is required to submit a deficit elimination plan or an enhanced
10 deficit elimination plan under section 1220 of the revised school
11 code, MCL 380.1220, and is located in a city with a population
12 between 9,000 and 11,000 that is in a county with a population
13 between 155,000 and 160,000, the district's membership is
14 considered to be the membership figure calculated under this
15 subdivision. The membership figure calculated under this
16 subdivision is the greater of the following:

17 (i) The average of the district's membership for the 3-fiscal-
18 year period ending with that fiscal year, calculated by adding the
19 district's actual membership for each of those 3 fiscal years, as
20 otherwise calculated under this subsection, and dividing the sum of
21 those 3 membership figures by 3.

22 (ii) The district's actual membership for that fiscal year as
23 otherwise calculated under this subsection.

24 (y) Full-time equated memberships for special education pupils
25 who are not enrolled in kindergarten but are enrolled in a
26 classroom program under R 340.1754 of the Michigan Administrative
27 Code are determined by dividing the number of class hours scheduled
28 and provided per year by 450. Full-time equated memberships for
29 special education pupils who are not enrolled in kindergarten but

1 are receiving early childhood special education services under R
2 340.1755 or R 340.1862 of the Michigan Administrative Code are
3 determined by dividing the number of hours of service scheduled and
4 provided per year per-pupil by 180.

5 (z) A pupil of a district that begins its school year after
6 Labor Day who is enrolled in an intermediate district program that
7 begins before Labor Day is not considered to be less than a full-
8 time pupil solely due to instructional time scheduled but not
9 attended by the pupil before Labor Day.

10 (aa) For the first year in which a pupil is counted in
11 membership on the pupil membership count day in a middle college
12 program, the membership is the average of the full-time equated
13 membership on the pupil membership count day and on the
14 supplemental count day for the current school year, as determined
15 by the department. If a pupil described in this subdivision was
16 counted in membership by the operating district on the immediately
17 preceding supplemental count day, the pupil is excluded from the
18 district's immediately preceding supplemental count for the
19 purposes of determining the district's membership.

20 (bb) A district or public school academy that educates a pupil
21 who attends a United States Olympic Education Center may count the
22 pupil in membership regardless of whether or not the pupil is a
23 resident of this state.

24 (cc) A pupil enrolled in a district other than the pupil's
25 district of residence under section 1148(2) of the revised school
26 code, MCL 380.1148, is counted in the educating district.

27 (dd) For a pupil enrolled in a dropout recovery program that
28 meets the requirements of section 23a, the pupil is counted as 1/12
29 of a full-time equated membership for each month that the district

1 operating the program reports that the pupil was enrolled in the
2 program and was in full attendance. However, if the special
3 membership counting provisions under this subdivision and the
4 operation of the other membership counting provisions under this
5 subsection result in a pupil being counted as more than 1.0 FTE in
6 a fiscal year, the payment made for the pupil under sections 22a
7 and 22b must not be based on more than 1.0 FTE for that pupil, and
8 any portion of an FTE for that pupil that exceeds 1.0 is instead
9 paid under section 25g. The district operating the program shall
10 report to the center the number of pupils who were enrolled in the
11 program and were in full attendance for a month not later than 30
12 days after the end of the month. A district shall not report a
13 pupil as being in full attendance for a month unless both of the
14 following are met:

15 (i) A personalized learning plan is in place on or before the
16 first school day of the month for the first month the pupil
17 participates in the program.

18 (ii) The pupil meets the district's definition under section
19 23a of satisfactory monthly progress for that month or, if the
20 pupil does not meet that definition of satisfactory monthly
21 progress for that month, the pupil did meet that definition of
22 satisfactory monthly progress in the immediately preceding month
23 and appropriate interventions are implemented within 10 school days
24 after it is determined that the pupil does not meet that definition
25 of satisfactory monthly progress.

26 (ee) A pupil participating in a virtual course under section
27 21f is counted in membership in the district enrolling the pupil.

28 (ff) If a public school academy that is not in its first or
29 second year of operation closes at the end of a school year and

1 does not reopen for the next school year, the department shall
2 adjust the membership count of the district or other public school
3 academy in which a former pupil of the closed public school academy
4 enrolls and is in regular daily attendance for the next school year
5 to ensure that the district or other public school academy receives
6 the same amount of membership aid for the pupil as if the pupil
7 were counted in the district or other public school academy on the
8 supplemental count day of the preceding school year.

9 (gg) If a special education pupil is expelled under section
10 1311 or 1311a of the revised school code, MCL 380.1311 and
11 380.1311a, and is not in attendance on the pupil membership count
12 day because of the expulsion, and if the pupil remains enrolled in
13 the district and resumes regular daily attendance during that
14 school year, the district's membership is adjusted to count the
15 pupil in membership as if he or she had been in attendance on the
16 pupil membership count day.

17 (hh) A pupil enrolled in a community district is counted in
18 membership in the community district.

19 (ii) A part-time pupil enrolled in a nonpublic school in
20 grades K to 12 in accordance with section 166b must not be counted
21 as more than 0.75 of a full-time equated membership.

22 (jj) A district that borders another state or a public school
23 academy that operates at least grades 9 to 12 and is located within
24 20 miles of a border with another state may count in membership a
25 pupil who is enrolled in a course at a college or university that
26 is located in the bordering state and within 20 miles of the border
27 with this state if all of the following are met:

28 (i) The pupil would meet the definition of an eligible student
29 under the postsecondary enrollment options act, 1996 PA 160, MCL

1 388.511 to 388.524, if the course were an eligible course under
2 that act.

3 (ii) The course in which the pupil is enrolled would meet the
4 definition of an eligible course under the postsecondary enrollment
5 options act, 1996 PA 160, MCL 388.511 to 388.524, if the course
6 were provided by an eligible postsecondary institution under that
7 act.

8 (iii) The department determines that the college or university
9 is an institution that, in the other state, fulfills a function
10 comparable to a state university or community college, as those
11 terms are defined in section 3 of the postsecondary enrollment
12 options act, 1996 PA 160, MCL 388.513, or is an independent
13 nonprofit degree-granting college or university.

14 (iv) The district or public school academy pays for a portion
15 of the pupil's tuition at the college or university in an amount
16 equal to the eligible charges that the district or public school
17 academy would pay to an eligible postsecondary institution under
18 the postsecondary enrollment options act, 1996 PA 160, MCL 388.511
19 to 388.524, as if the course were an eligible course under that
20 act.

21 (v) The district or public school academy awards high school
22 credit to a pupil who successfully completes a course as described
23 in this subdivision.

24 (kk) A pupil enrolled in a middle college program may be
25 counted for more than a total of 1.0 full-time equated membership
26 if the pupil is enrolled in more than the minimum number of
27 instructional days and hours required under section 101 and the
28 pupil is expected to complete the 5-year program with both a high
29 school diploma and at least 60 transferable college credits or is

1 expected to earn an associate's degree in fewer than 5 years.

2 (II) If a district's or public school academy's membership for
3 a particular fiscal year, as otherwise calculated under this
4 subsection, includes pupils counted in membership who are enrolled
5 under section 166b, all of the following apply for the purposes of
6 this subdivision:

7 (i) If the district's or public school academy's membership for
8 pupils counted under section 166b equals or exceeds 5% of the
9 district's or public school academy's membership for pupils not
10 counted in membership under section 166b in the immediately
11 preceding fiscal year, then the growth in the district's or public
12 school academy's membership for pupils counted under section 166b
13 must not exceed 10%.

14 (ii) If the district's or public school academy's membership
15 for pupils counted under section 166b is less than 5% of the
16 district's or public school academy's membership for pupils not
17 counted in membership under section 166b in the immediately
18 preceding fiscal year, then the district's or public school
19 academy's membership for pupils counted under section 166b must not
20 exceed the greater of the following:

21 (A) 5% of the district's or public school academy's membership
22 for pupils not counted in membership under section 166b.

23 (B) 10% more than the district's or public school academy's
24 membership for pupils counted under section 166b in the immediately
25 preceding fiscal year.

26 (iii) If 1 or more districts consolidate or are parties to an
27 annexation, then the calculations under subparagraphs (i) and (ii)
28 must be applied to the combined total membership for pupils counted
29 in those districts for the fiscal year immediately preceding the

1 consolidation or annexation.

2 (5) "Public school academy" means that term as defined in
3 section 5 of the revised school code, MCL 380.5.

4 (6) "Pupil" means an individual in membership in a public
5 school. A district must have the approval of the pupil's district
6 of residence to count the pupil in membership, except approval by
7 the pupil's district of residence is not required for any of the
8 following:

9 (a) A nonpublic part-time pupil enrolled in grades K to 12 in
10 accordance with section 166b.

11 (b) A pupil receiving 1/2 or less of his or her instruction in
12 a district other than the pupil's district of residence.

13 (c) A pupil enrolled in a public school academy.

14 (d) A pupil enrolled in a district other than the pupil's
15 district of residence under an intermediate district schools of
16 choice pilot program as described in section 91a or former section
17 91 if the intermediate district and its constituent districts have
18 been exempted from section 105.

19 (e) A pupil enrolled in a district other than the pupil's
20 district of residence if the pupil is enrolled in accordance with
21 section 105 or 105c.

22 (f) A pupil who has made an official written complaint or
23 whose parent or legal guardian has made an official written
24 complaint to law enforcement officials and to school officials of
25 the pupil's district of residence that the pupil has been the
26 victim of a criminal sexual assault or other serious assault, if
27 the official complaint either indicates that the assault occurred
28 at school or that the assault was committed by 1 or more other
29 pupils enrolled in the school the pupil would otherwise attend in

1 the district of residence or by an employee of the district of
2 residence. A person who intentionally makes a false report of a
3 crime to law enforcement officials for the purposes of this
4 subdivision is subject to section 411a of the Michigan penal code,
5 1931 PA 328, MCL 750.411a, which provides criminal penalties for
6 that conduct. As used in this subdivision:

7 (i) "At school" means in a classroom, elsewhere on school
8 premises, on a school bus or other school-related vehicle, or at a
9 school-sponsored activity or event whether or not it is held on
10 school premises.

11 (ii) "Serious assault" means an act that constitutes a felony
12 violation of chapter XI of the Michigan penal code, 1931 PA 328,
13 MCL 750.81 to ~~750.90h~~, **750.90g**, or that constitutes an assault and
14 infliction of serious or aggravated injury under section 81a of the
15 Michigan penal code, 1931 PA 328, MCL 750.81a.

16 (g) A pupil whose district of residence changed after the
17 pupil membership count day and before the supplemental count day
18 and who continues to be enrolled on the supplemental count day as a
19 nonresident in the district in which he or she was enrolled as a
20 resident on the pupil membership count day of the same school year.

21 (h) A pupil enrolled in an alternative education program
22 operated by a district other than his or her district of residence
23 who meets 1 or more of the following:

24 (i) The pupil has been suspended or expelled from his or her
25 district of residence for any reason, including, but not limited
26 to, a suspension or expulsion under section 1310, 1311, or 1311a of
27 the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

28 (ii) The pupil had previously dropped out of school.

29 (iii) The pupil is pregnant or is a parent.

1 (iv) The pupil has been referred to the program by a court.

2 (i) A pupil enrolled in the Michigan Virtual School, for the
3 pupil's enrollment in the Michigan Virtual School.

4 (j) A pupil who is the child of a person who works at the
5 district or who is the child of a person who worked at the district
6 as of the time the pupil first enrolled in the district but who no
7 longer works at the district due to a workforce reduction. As used
8 in this subdivision, "child" includes an adopted child, stepchild,
9 or legal ward.

10 (k) An expelled pupil who has been denied reinstatement by the
11 expelling district and is reinstated by another school board under
12 section 1311 or 1311a of the revised school code, MCL 380.1311 and
13 380.1311a.

14 (l) A pupil enrolled in a district other than the pupil's
15 district of residence in a middle college program if the pupil's
16 district of residence and the enrolling district are both
17 constituent districts of the same intermediate district.

18 (m) A pupil enrolled in a district other than the pupil's
19 district of residence who attends a United States Olympic Education
20 Center.

21 (n) A pupil enrolled in a district other than the pupil's
22 district of residence under section 1148(2) of the revised school
23 code, MCL 380.1148.

24 (o) A pupil who enrolls in a district other than the pupil's
25 district of residence as a result of the pupil's school not making
26 adequate yearly progress under the no child left behind act of
27 2001, Public Law 107-110, or the every student succeeds act, Public
28 Law 114-95.

29 However, if a district educates pupils who reside in another

1 district and if the primary instructional site for those pupils is
 2 established by the educating district after 2009-2010 and is
 3 located within the boundaries of that other district, the educating
 4 district must have the approval of that other district to count
 5 those pupils in membership.

6 (7) "Pupil membership count day" of a district or intermediate
 7 district means:

8 (a) Except as provided in subdivision (b), the first Wednesday
 9 in October each school year or, for a district or building in which
 10 school is not in session on that Wednesday due to conditions not
 11 within the control of school authorities, with the approval of the
 12 superintendent, the immediately following day on which school is in
 13 session in the district or building. A district is considered to be
 14 in session for purposes of this subdivision when the district is
 15 providing pupil instruction pursuant to an extended COVID-19
 16 learning plan approved under section 98a.

17 (b) For a district or intermediate district maintaining school
 18 during the entire school year, the following days:

- 19 (i) Fourth Wednesday in July.
- 20 (ii) First Wednesday in October.
- 21 (iii) Second Wednesday in February.
- 22 (iv) Fourth Wednesday in April.

23 (8) "Pupils in grades K to 12 actually enrolled and in regular
 24 daily attendance" means pupils in grades K to 12 in attendance and
 25 receiving instruction in all classes for which they are enrolled on
 26 the pupil membership count day or the supplemental count day, as
 27 applicable. Except as otherwise provided in this subsection, a
 28 pupil who is absent from any of the classes in which the pupil is
 29 enrolled on the pupil membership count day or supplemental count

1 day and who does not attend each of those classes during the 10
2 consecutive school days immediately following the pupil membership
3 count day or supplemental count day, except for a pupil who has
4 been excused by the district, is not counted as 1.0 full-time
5 equated membership. A pupil who is excused from attendance on the
6 pupil membership count day or supplemental count day and who fails
7 to attend each of the classes in which the pupil is enrolled within
8 30 calendar days after the pupil membership count day or
9 supplemental count day is not counted as 1.0 full-time equated
10 membership. In addition, a pupil who was enrolled and in attendance
11 in a district, intermediate district, or public school academy
12 before the pupil membership count day or supplemental count day of
13 a particular year but was expelled or suspended on the pupil
14 membership count day or supplemental count day is only counted as
15 1.0 full-time equated membership if the pupil resumed attendance in
16 the district, intermediate district, or public school academy
17 within 45 days after the pupil membership count day or supplemental
18 count day of that particular year. A pupil not counted as 1.0 full-
19 time equated membership due to an absence from a class is counted
20 as a prorated membership for the classes the pupil attended. For
21 purposes of this subsection, "class" means a period of time in 1
22 day when pupils and an individual who is appropriately placed under
23 a valid certificate, substitute permit, authorization, or approval
24 issued by the department, are together and instruction is taking
25 place.

26 (9) "Pupils engaged in pandemic learning for fall 2020" means
27 pupils in grades K to 12 who are enrolled in a district, excluding
28 a district that operates as a cyber school, as that term is defined
29 in section 551 of the revised school code, MCL 380.551, or

1 intermediate district and to which any of the following apply:

2 (a) For a pupil who is not learning sequentially, any of the
3 following occurs for each of the pupil's scheduled courses:

4 (i) The pupil attends a live lesson from the pupil's teacher or
5 at least 1 of the pupil's teachers on 2020-2021 pupil membership
6 count day.

7 (ii) The pupil logs into an online or virtual lesson or lesson
8 activity on 2020-2021 pupil membership count day and the login can
9 be documented by the district or intermediate district.

10 (iii) The pupil and the pupil's teacher or at least 1 of the
11 pupil's teachers engage in a subject-oriented telephone
12 conversation on 2020-2021 pupil membership count day.

13 (iv) The district or intermediate district documents that an
14 electronic mail dialogue occurred between the pupil and the pupil's
15 teacher or at least 1 of the pupil's teachers on 2020-2021 pupil
16 membership count day.

17 (b) For a pupil who is using sequential learning, any of the
18 following occurs for each of the pupil's scheduled courses:

19 (i) The pupil attends a virtual course where synchronous, live
20 instruction occurs with the pupil's teacher or at least 1 of the
21 pupil's teachers on 2020-2021 pupil membership count day and the
22 attendance is documented by the district or intermediate district.

23 (ii) The pupil completes a course assignment on 2020-2021 pupil
24 membership count day and the completion is documented by the
25 district or intermediate district.

26 (iii) The pupil completes a course lesson or lesson activity on
27 2020-2021 pupil membership count day and the completion is
28 documented by the district or intermediate district.

29 (iv) The pupil accesses an ongoing lesson that is not a login

1 on 2020-2021 pupil membership count day and the access is
2 documented by the district or intermediate district.

3 (c) At a minimum, 1 2-way interaction has occurred between the
4 pupil and the pupil's teacher or at least 1 of the pupil's teachers
5 or another district employee who has responsibility for the pupil's
6 learning, grade progression, or academic progress during the week
7 on which 2020-2021 pupil membership count day falls and during each
8 week for the 3 consecutive weeks after the week on which 2020-2021
9 pupil membership count day falls. A district may utilize 2-way
10 interactions that occur under this subdivision toward meeting the
11 requirement under section 101(3)(h). As used in this subdivision:

12 (i) "2-way interaction" means a communication that occurs
13 between a pupil and the pupil's teacher or at least 1 of the
14 pupil's teachers or another district employee who has
15 responsibility for the pupil's learning, grade progression, or
16 academic progress, where 1 party initiates communication and a
17 response from the other party follows that communication, and that
18 is relevant to course progress or course content for at least 1 of
19 the courses in which the pupil is enrolled or relevant to the
20 pupil's overall academic progress or grade progression. Responses,
21 as described in this subparagraph, must be to communication
22 initiated by the teacher, by another district employee who has
23 responsibility for the pupil's learning, grade progression, or
24 academic progress, or by the pupil, and not some other action
25 taken. The communication described in this subparagraph may occur
26 through, but is not limited to, any of the following means:

- 27 (A) Electronic mail.
28 (B) Telephone.
29 (C) Instant messaging.

1 (D) Face-to-face conversation.

2 (ii) "Week" means a period beginning on Wednesday and ending on
3 the following Tuesday.

4 (d) The pupil has not participated in or completed an activity
5 as described in subdivision (a), (b), or (c) and the pupil was not
6 excused from participation or completion, but the pupil
7 participates in or completes an activity described in subdivision
8 (a) or (b) during the 10 consecutive school days immediately
9 following the 2020-2021 pupil membership count day.

10 (e) The pupil has not participated in or completed an activity
11 as described in subdivision (a), (b), or (c) and the pupil was
12 excused from participation or completion, but the pupil
13 participates in or completes an activity described in subdivision
14 (a) or (b) during the 30 calendar days immediately following the
15 2020-2021 pupil membership count day.

16 (f) The pupil meets the criteria of pupils in grades K to 12
17 actually enrolled and in regular daily attendance.

18 (10) "Rule" means a rule promulgated pursuant to the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
20 24.328.

21 (11) "The revised school code" means the revised school code,
22 1976 PA 451, MCL 380.1 to 380.1852.

23 (12) "School district of the first class", "first class school
24 district", and "district of the first class" mean, for the purposes
25 of this article only, a district that had at least 40,000 pupils in
26 membership for the immediately preceding fiscal year.

27 (13) "School fiscal year" means a fiscal year that commences
28 July 1 and continues through June 30.

29 (14) "State board" means the state board of education.

1 (15) "Superintendent", unless the context clearly refers to a
2 district or intermediate district superintendent, means the
3 superintendent of public instruction described in section 3 of
4 article VIII of the state constitution of 1963.

5 (16) "Supplemental count day" means the day on which the
6 supplemental pupil count is conducted under section 6a or the day
7 specified as supplemental count day under section 6a.

8 (17) "Tuition pupil" means a pupil of school age attending
9 school in a district other than the pupil's district of residence
10 for whom tuition may be charged to the district of residence.
11 Tuition pupil does not include a pupil who is a special education
12 pupil, a pupil described in subsection (6)(c) to (o), or a pupil
13 whose parent or guardian voluntarily enrolls the pupil in a
14 district that is not the pupil's district of residence. A pupil's
15 district of residence shall not require a high school tuition
16 pupil, as provided under section 111, to attend another school
17 district after the pupil has been assigned to a school district.

18 (18) "State school aid fund" means the state school aid fund
19 established in section 11 of article IX of the state constitution
20 of 1963.

21 (19) "Taxable value" means the taxable value of property as
22 determined under section 27a of the general property tax act, 1893
23 PA 206, MCL 211.27a.

24 (20) "Textbook" means a book, electronic book, or other
25 instructional print or electronic resource that is selected and
26 approved by the governing board of a district and that contains a
27 presentation of principles of a subject, or that is a literary work
28 relevant to the study of a subject required for the use of
29 classroom pupils, or another type of course material that forms the

1 basis of classroom instruction.

2 (21) "Total state aid" or "total state school aid", except as
3 otherwise provided in this article, means the total combined amount
4 of all funds due to a district, intermediate district, or other
5 entity under this article.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.

8 Enacting section 2. This amendatory act does not take effect
9 unless Senate Bill No. ____ or House Bill No. 5542 (request no.
10 00704'21) of the 101st Legislature is enacted into law.